

### **REMARKS**

In the Office Action of November 3, 2005 claims 1-5, 8-15, 18-19, and 26-30 were rejected under 35 U.S.C. §102 (b) as being anticipated by EP 0066463. Claims 1-64 were rejected under 35 U.S.C. §103(a) as being unpatentable over EP 0066463 in view of EP 1212974.

Claims 1-64 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over:

- claims 1-50 of co-pending Application No. 10/745,327 in view of EP 0066463;
- claims 1-91 of co-pending Application No. 10/733,169 in view of EP 0066463;
- claims 1-131 of co-pending Application No. 10/321,831 in view of EP 0066463;
- claims 1-220 of co-pending Application No. 10/322,277 in view of EP 0066463; and
- claims 1-132 of co-pending Application No. 10/036,736 in view of EP 0066463.

#### **I. 35 U.S.C. §102(b) Rejection of Claims 1-5, 8-15, 18-19, and 26-30**

Applicants have amended claim 1 to clearly indicate that the plurality of cellulosic fibrous webs comprising the absorbent structure are adjacent to one another. Support in the specification for the amended claim language can be found in the various embodiments illustrated as having multiple adjacent cellulosic fibrous webs, such as Fig. 13. Applicants respectfully traverse the rejection of claim 1 since, as amended, claim 1 is patentably distinguishable from the cited EP 0066463.

EP 0066463 does not teach a plurality of adjacent cellulosic fibrous webs as claimed in the present application. Instead, the two substrates of EP 0066463 are separated by a compartment containing active material. See page 2, line 29 through page 3, line 6.

As applicants have traversed the rejection of claim 1, applicants submit they

have also traversed rejections as to claims 2-5, 8-15, 18-19, and 26-30 which are all directly or indirectly dependent on claim 1.

**II. 35 U.S.C. §103(a) Rejection of Claims 1-64**

Applicants respectfully request withdrawal of the Examiner's 103(a) rejection for the following reasons:

**A. The Present Claims Are Not Obvious Because the Combined References Do Not Teach All Elements of the Claimed Invention**

**1. Number of Cellulosic Ply Layers**

As noted in paragraph 6 at page 4 of the November 3, 2005 Office Action, EP '463 differs from the claimed invention because EP '463 does not teach the particularly claimed number of cellulosic plies. Applicants respectfully submit that EP '463 does not teach use of multiple adjacent layers of cellulosic plies at all, and therefore any obvious modification of EP '463 would not teach the claimed invention.

As noted above with respect to claim 1, instead of multiple plies, EP '463 teaches two nonadjacent substrates that are separated by a compartment containing active material. See page 2, line 29 through page 3, line 6. In further discussing the substrates, EP '463 notes that the substrates preferably comprise an inner laminate of liquid-impermeable material, such as a plastic film, and an outer laminate of porous material. At page 6, lines 27-30, EP '463 teaches that a liquid-impermeable layer is not essential—but such teaching is presented for embodiments in which the sandwiched additive is contained within its own encapsulation. In any event, the cellulosic layers would be separated by the additive compartment.

Applicants submit that EP '463 does not teach that varying the number of plies affects softness and absorbency because EP '463 does not teach the use of multiple cellulosic plies at all. Read in the context of the entire disclosure of EP '463, the passages on page 5 cited by the examiner relate to the softness or absorbency advantages in using a plastic film including a porous or soft material laminate instead of a wholly liquid-impermeable material (i.e. plastic film) referenced within those passages. Applicants respectfully assert that, regardless of the amount or type of soft material involved, any structure taught by this passage includes a liquid-impermeable material.

Therefore, the cited passage does not teach the claimed adjacent layers of cellulosic material.

## **2. Aperture Depth, Size, and Distribution**

The office action notes at paragraph 6 at page 4 of the November 3, 2005 Office Action that EP '463 differs from the claimed invention because EP '463 does not teach that the perforations should extend less than about 50% of the thickness of the cleaning sheet. Applicants assert that any teachings of EP '463 relative to the apertures are insufficient—one of ordinary skill in the art would not be able to produce an article including apertures as presently claimed without undue experimentation, because EP '463 teaches varying perforation size, depth, and distribution in the context of additive compartments.

EP '463 teaches that the depth and distribution of the perforations can vary the amount of additive released by providing more or less access to the additive compartments when the additives are disposed between the two substrate layers. EP '463 is cognizant of that fact when it notes at page 6 that “In these embodiments, the perforations will not necessarily extend right through the substrate, but obviously they must penetrate through the liquid-impermeable layer or part.” Such liquid-impermeable layer is found in the interior of the “sandwich” disclosed in EP '463. EP '463 also explicitly states that “the distribution of perforations depends on the size of the compartments as well as the desired rate of release of the active material” at page 9, lines 8-10.

The teachings in EP '463 are inadequate in that they provide no guidance to one of ordinary skill in the art regarding perforations in a cleaning article with no sandwiched compartments. Eliminating “size of the compartments” as a variable in determining perforation size removes half of the information taught by EP '463 as affecting perforation distribution. Any article that includes the claimed aperture configuration(s) and is based upon a compartment-free variant of EP '463 would only result from undue experimentation or from using impermissible hindsight.

## **3. Other Teachings Not Found in the References**

Neither EP '463 nor EP '974 teaches apertures containing a chemical additive as

found in application claims 12, 13, 39, and 40, and the Examiner has not noted any other teaching of such feature. Absent any such teaching, applicants submit that at the very least claims 12, 13, 39, and 40 are allowable over the cited references.

Neither EP '463 nor EP '974 teach the formation of two sets of apertures with the apertures of the first set being positioned in the Z-direction offset from the apertures of the second set. For this reason, applicants submit that claims 26, 27, 46, and 47 are allowable over the cited references.

Neither EP '463 nor EP '974 teach a cover wrapped around the plurality of fibrous webs. For this reason, applicants submit that claims 11 and 38 are allowable over the cited references.

#### **B. The 'Routine Experimentation' Rejection**

At page 4, the Office Action states that it would have been obvious to select the particular depth of the perforations through routine experimentation. Applicants respectfully assert that this is an improper "obvious to try" rationale, since, as noted above, EP '463 gives no teaching as to what perforation distributions would be successful in an embodiment that does not use sandwiched additive compartments.

#### **C. Motivation to Combine is Lacking**

Applicants additionally assert that one of ordinary skill in the art would not be motivated to combine any teaching of EP '463 with any teaching of a multi-ply sheet unless such sheet included compartments, since EP '463 is concerned with "sandwiched" additives. See EP '463 page 2, line 29 to page 3, line 6. Any combination of EP '463 with another reference that did not include the compartments for additives would be improper, as such combination would render EP '463 inoperative for its stated purpose of delivering additives.

#### **D. Conclusion**

Applicants respectfully submit that the claimed invention is not obvious over the cited references, and therefore request withdrawal of the obviousness rejections.

### **III. Provisional Double Patenting Rejections**

Applicants respectfully request that action on the provisional double patenting rejections be held in abeyance until the claims in the instant application are allowed,

since, until that point, the relative scope of the claims could vary.

**IV. Conclusion**

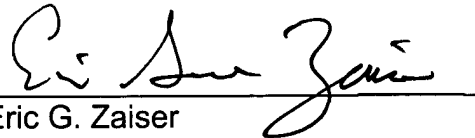
With the present amendment and accompanying remarks, Applicants submit that all pending claims are patentable over the cited references. Favorable action thereon is respectfully requested.

The Examiner is encouraged to contact the undersigned at her convenience to resolve any remaining issues.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully requested,

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